



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/623,928	09/08/2000	Hannu H. Kari	796.366USW1	1849
32294	7590	11/23/2004	EXAMINER	
SQUIRE, SANDERS & DEMPSEY L.L.P. 14TH FLOOR 8000 TOWERS CRESCENT TYSONS CORNER, VA 22182			PRIETO, BEATRIZ	
			ART UNIT	PAPER NUMBER
			2142	

DATE MAILED: 11/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/623,928

Applicant(s)

KARI ET AL.

Examiner

Prieto, Beatriz

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 62-93 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 62-93 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to amendment filed 07/29/04, claims 32-61 have been canceled, and claims 62-93 have been added. Claims 62-93 have been examined and remain pending.
2. Acknowledgement is made to claimed priority under 35 U.S.C. 119(a)-(d). Certified copy has been received and placed in file. Drawings replacement filed 07/29/04 is acknowledged.
3. Newly added claims 62-93 as noted by applicant contain the subject matter present in cancelled claims 32-61 (remarks p. 11).
4. It is noted that examined claims 62-93 are substantially the same as cancelled claims 32-61. Specifically, claims 62-74 are substantially the same as claims 32-44, claims 75-85 are the same as 62, 45, 63, 64, 36-38, 69-74, respectively, claims 86-87 are substantially the same as 62 and 74, claim 88 is substantially the same as claim 62 and 64, claim 89 is substantially the same as 74 claims 90-91 are substantially the same as 88-89, claim 92 is substantially the same as claim 62 and claim 93 is substantially the same as claim 92.
4. Claimed invention is substantially the same as the previous canceled claims, rejection is sustained. Applicant's arguments filed 07/29/04 have been fully been considered but not found persuasive. See response to arguments section below for further details.
5. Quotation of the appropriate paragraphs of 35 U.S.C. 102(e) that form the basis for the rejections under this section made in this Office action may be found in previous office action.
6. Claim 62-93 are rejected under 35 U.S.C. 102(e) as being anticipated by (US 6,122,514) SPAUR et. al. (referred to as Spaur hereafter).

Regarding claim 62, Spaur teaches substantial features of the invention, including a system/method for routing a data transmission connection between a mobile unit ("terminal equipment") and a host site over a ("data transmission") network (col 5/lines 28-43 and col 7/lines 5-9), wherein a data transmission network includes two network channels, links or routes ("two access points") (channels 34a-n, col 6/lines

30-48) for connection of the terminal equipment to the data transmission network, the method comprising:

establishing a requirement parameters ("criterion") for a choice of an access point (col 2/lines 37-56, col 4/lines 55-62);

analyzing and weighting ("evaluating") the access points according to said criterion (col 2/lines 60-col 3/line and col 4/line 50-col 5/line 6);

choosing at least two of the access points which meet said criterion (col 2/line 60-col 3/line 22, and col 4/lines 58-62); and

transmitting data through one of the access points and other data the another access point (col 6/lines 1-29, 49-64).

Regarding claim 63, choosing the access points meeting said criterion in the terminal equipment (col 2/line 60-col 3/line 22 and col 4/line 58-62).

Regarding claim 64, choosing the access points meeting said criterion in an interconnection exchange device ("gateway exchange") (col 7/lines 19-20).

Regarding claim 65, establishing the criterion for the choice of a transmission capacity of a data transmission of the chosen access points (col 2/lines 37-col 3/line 22 and col 4/lines 55-65),

choosing the transmission capacity of each chosen access point according to a result of the evaluation step (col 7/lines 41-45, col 2/line 60-col 3/line 22 and col 4/lines 58-62), and

delivering and transmitting ("proportioning") the data transmission between the chosen access points in relation to the chosen transmission capacities (col 6/lines 1-29, 49-64).

Regarding claims 66-67, estimating the access points repeatedly ("constantly") including at certain intervals of time (col 20/lines 20-23).

Regarding claim 68, estimating the access points by monitoring transmission parameters (col 9/lines 46-53), including the quality of the data transmission (col 8/lines 42-50 and col 2/lines 38-43).

Regarding claim 69, giving information ("reports") to an application (10, 12, 14 and 18 of Fig. 1) used in the terminal equipment on characteristics of the chosen access points (col 5/lines 47-50).

Regarding claim 70, adapting a functioning of the application according to the reported characteristics (col 5/lines 47-60 adapt or change the application see col 9/lines 7-20).

Regarding claim 71, reporting characteristics of the chosen access points to a user (col 4/lines 37-49 and col 9/lines 30-34).

Regarding claim 72, establishing the criterion from an application to be used in the terminal (col 5/lines 47-50).

Regarding claim 73, choosing at least one access point meeting said criterion for the application (col 4/lines 11-16, and col 2/line 60-col 3/line 22).

Regarding claim 74, evaluating the access points, in which the access points where one is wireless access point (col 6/lines 30-48).

Regarding claim 75, this claim comprises limitation substantially the same a those in claim 62, thereby same rationale of rejection is applicable, further limitations comprise:

- establishing a criterion for a choice of a data transmission relaying capacity of the access points (col 2/lines 38-43, 57-46, requirements include transmission relaying parameters, e.g. bandwidth);

- analyzing, evaluating and weighting ("estimating") the access points in accordance with the criterion (col 2/line 60-col 3/line 44 and col 4/line 50-col 5/line 6);

- choosing a relaying capacity of each access point according to results of the estimation step (col 2/line 60-col 3/line 22 and col 4/line 58-col 5/line 6); and

- the data ("transmission traffic") is delivered and transmitted ("proportioned") between the access points in relation to the chosen relaying capacities (col 6/lines 1-29, 49-64).

Regarding claims 76-77, these claims are substantially the same as claims 63-64, discussed above, same rationale of rejections is applicable.

Regarding claims 78-84 and 85, these claims are substantially the same as claims 66-72 and 74, respectively discussed above, same rationale of rejection is applicable.

Regarding claim 86, this system “arrangement”, claim is substantially the same as claim 62, taught by the applied prior art as noted, discussed above, wherein the same functions on claim 62, are performed in this claim by an entity called “router”, same rationale of rejection is applicable.

Regarding claim 87, this claim is substantially the same as claim 74, same rationale of rejection is applicable.

Regarding claim 88, this claims is substantially the same as claims 62, 64 and 75, same rationale of rejection is applicable.

Regarding claim 89, this claim is substantially the same a claim 74, same rationale of rejection is applicable.

Regarding claim 90, this claim is substantially the same as claim 88, which is the same in substance as claims 62, 64 and 75, discussed above, same rationale of rejection is applicable.

Regarding claim 91, this claim is substantially the same as claims 74, 89, discussed above, same rationale of rejection is applicable.

Regarding claim 92, this apparatus claim is substantially the same as the method claim 62, same rationale of rejection is applicable.

Regarding claim 93, this apparatus claim comprising the means for performing functions is substantially the same as the functions performed by the apparatus claim 92, same rationale of rejection is applicable.

Response to arguments

7. According to applicant, new claims basically incorporate a “transmitting...” limitation as the feature that overcomes the prior art of record, i.e. the Spaur reference (remarks p. 15). Because in essence according to applicant, Spaur does not teach the transmission of different types of data, such as voice and image, divided into a first part and a second part, and each part routed through one of at least two access points and another of at least two access points (remarks p. 15-16) which is set forth in the added transmitting limitation of at least claim 62.

8. The above argument is not commensurate with the rejected claim language, (i.e. the features argued are not claimed), in this case, the claim limitation recites, "transmitting at least a first part of data in a first direction through one of the at least two chosen access points and at least a second part of the data in the first direction through another of the at least two chosen access points." Given the broadest reasonable interpretation in light of the specification, and not reading limitations from the specification, as mandated (see MPEP §2111 and *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057, Fed. Cir. 1993), the claim clause "at least a first part of data" does not exclude been read as simply data, further it is noted that the transmission of data is directional, thereby, the clause "in the first direction", really would not be distinguishable over any reference where data is transmitted. Hence, claimed transmission limitation, broadly reads, "transmitting data from one point to another through one chosen access points and other data through another point". This is not distinguishable over the prior art.

9. Applicant arguments filed 07/29/04 have been fully considered but not found persuasive

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Prosecution of this application is closed by means of this final office action § 1.113, applicant may request continued examination of the application by filing a Request for Continued Examination of under 37 CFR § 1.114 and providing the corresponding fee set forth in § 1.17(e) for the submission of, but not limited to, *new arguments, an information disclosure statement, an amendment to the written description, claims, drawings, or new evidence in support of patentability*. Or applicant whose claims have been twice rejected, may appeal from the decision of the administrative patent judge to the Board of Patent Appeals and Interferences under 35 U.S.C. §134.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beatriz Prieto whose telephone number is (571) 272-3902. The Examiner can normally be reached on Monday-Friday from 6:30 to 4:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's Supervisor, Jack B. Harvey can be reached on (571) 272-3896. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800/4700.

Information regarding the status of an application may be obtained for the Patent Application Information Retrieval (PAIR) system, status information for published application may be obtained from either Private or Public PAIR, for unpublished application Private PAIR only (see <http://pair-direct.uspto.gov> or the Electronic Business Center at 866-217-9197 (toll-free)).



B. Prieto
Patent Examiner
November 20, 2004